

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
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In the matter of

Review of the Commission's Rules
regarding the main studio and
local public inspection files of
broadcast television and radio stations

MM Docket No. 97-138

**COMMENTS OF
THE ASSOCIATION OF LOCAL TELEVISION STATIONS, INC.**

The following comments are submitted by the Association of Local Television Stations, Inc. ("ALTV"), in response to the Commission's *Notice of Proposed Rule Making* in the above-captioned proceeding.¹ ALTV is a non-profit, incorporated association of broadcast television stations unaffiliated with the ABC, CBS, or NBC television networks.²

ALTV fully supports the thrust of the Commission's proposals to refine the main studio and local public inspection file rules. In particular, ALTV urges the Commission to permit owners of multiple stations in the same television market to co-locate the stations' main studios and to

¹FCC 97-182 (released May 28, 1997)[hereinafter cited as *Notice*].

²"Local television stations" as referred to herein include not only truly independent stations, but also local television stations affiliated with the Fox, UPN, and WB networks.

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maintain stations' public files at their main studios.³ Thus, the owner of two television stations in a market could co-locate the main studios of both stations at any location in the market and maintain their public files there as well.

ALTV's proposal resonates readily with the Commission's proposals and would serve already-defined public interest objectives. First, although the Commission's rules generally prohibit common ownership of two television stations in the same market, ALTV's position hardly places the cart before the horse. Now before the Commission is a range of proposals to relax the television duopoly rule.⁴ If anything, the "horse" -- in the form of the Commission's pending proceeding looking towards relaxation of the duopoly rule -- should be reinvigorated by recent Congressional statements. In including a provision which will permit local licensees and newspapers to bid for recaptured analog channels at the conclusion of the transition to DTV, Congress encouraged the Commission to get along with duopoly relief:

The conferees do not intend that the duopoly and television-newspaper cross-ownership relief provided herein should have any bearing upon the Commission's current proceedings, which concerns [*sic*] more immediate relief. The conferees expect that the Commission will proceed with its own independent examination in these matters. Specifically, the conferees expect the Commission will provide additional relief (*e.g.*, VHF/UHF combinations) that it finds to be in the public interest, and will implement the permanent grandfather requirement for local marketing agreements as provided in the Telecommunications Act of 1996.⁵

Therefore, the horse should be in full stride and on the verge of resuming its place at the front of the cart. In such circumstances, relaxation of the main studio rule for television stations as urged by ALTV in no way would be premature.

³Although the Commission notes only the definition of the local radio market in the *Notice* (at ¶15, n.23), the local market area of television stations is defined in the Commission's rules. 47 CFR §73.3555(e)(3)(i).

⁴*Second Further Notice of Proposed Rule Making*, MM Dkt. No. 91-221, FCC 96-438 (released November 7, 1996).

⁵Conference Report, H.R. 2015, Title III, at 9.

Second, relaxation of the main studio rule would preserve a primary benefit of relaxation of the rule, the ability to take advantage of economies of scale via combined operation of two stations.⁶ In some cases, however, the current main studio rule may eliminate or diminish the ability of a duopoly licensee to combine operations. The Commission correctly observes in the *Notice* that:

A licensee owning two or more stations in the same area may find it most efficient to operate these stations from a centrally located studio/business office, yet the main studio rule would require it to maintain a separate main studio for one or more of its commonly-owned stations if they do not place a principal community contour signal over the central studio/office.⁷

Thus, the benefits flowing from relaxation of one rule are impeded by the operation of the main studio rule. The Commission should not be considering the benefits of relaxation of the duopoly rule, while foreclosing the ability of even a few stations from taking advantage of those benefits.⁸

Third, needlessly burdensome regulation has no place in today's enormously competitive video marketplace. Every day brings greater demands on the resources of local television stations. First, an increasingly competitive video marketplace has reduced broadcasting's share of the television audience. Second, the Commission continues to adopt new regulations which impose costs on local television stations.⁹ Third, the impending transition to digital television transmission

⁶See *Further Notice of Proposed Rule Making*, 10 FCC Rcd 3524, 3575 (1995).

⁷*Notice* at ¶8. In this respect, no basis exists for distinguishing between radio and television under the main studio rule. As the Commission has recognized:

We do not believe there are any distinctions between the services which warrant different main studio rules for radio and television.

⁸See *Second Further Notice, supra*, at ¶31.

⁹Prominent recent examples include new closed-captioning and children's television requirements.

will be very costly for television stations. Therefore, if local television stations are to provide a popular, responsive, and competitive program service to their communities, they must operate at maximum efficiency and apportion their resources judiciously. The Commission, therefore, must take great care to assure that the benefits conveyed by its rules remain commensurate with their costs. Otherwise, stations will be squandering resources better devoted to other aspects of station operation.¹⁰ This especially is true where, as noted above, the demands of one rule effectively nullify the benefits envisioned by the Commission in modifying other rules -- a distinct possibility with respect to the main studio rule as it now applies to television stations.

Fourth, ALTV also concurs that relaxation of the rules is necessary to prevent more severe application to smaller (generally UHF) stations. As the Commission also observes, the effect of the rule falls disproportionately on smaller stations.¹¹ Many UHF television stations -- the bulk of which do not operate at maximum permissible power -- are more constrained by the rule *vis-a-vis* the location of their main studio than competing VHF stations.¹² UHF stations continue to struggle against technical disadvantages, which may stand to be worsened in the implementation of DTV.¹³ Therefore, relaxation of the main studio rule also is justified to eliminate any vestige of disparate treatment of smaller stations.

¹⁰In the starkest terms, local television stations should not be strapped by unnecessarily demanding main studio rules when their resources better might be devoted to local public affairs programs, expanded newsgathering capability, or educational programming for children.

¹¹*Notice* at ¶14.

¹²The Commission's chart showing a 80 km city grade contour for UHF channels is misleading because it assumes maximum facilities -- something few UHF stations have been able to afford.

¹³*See* Petition for Reconsideration, MM Docket No. 87-268, filed June 11, 1997, by ALTV.



Fifth, the Commission need have no fear that station management would become isolated by virtue of the location of the station's main studio. The world is too awash in media of individual and mass communications, to say nothing of dramatic improvements in individual and mass transportation. For example, stations' ability to extend their program origination capability throughout their coverage areas (and beyond) has been enhanced by electronic news gathering ("ENG") and mobile satellite uplinks. Similarly, the ability of viewers to communicate with stations is unimpeded. The telephone, the fax, and the Internet enable viewers to communicate just as easily and effectively as they could via a visit to a station's main studio. Even those whose concerns warrant a studio visit doubtfully will find it difficult to get there. As the Commission observes in the *Notice* (at ¶10):

[I]t is possible for a main studio to be outside the station's principal community contour and yet still be reasonably accessible to the community of license. For example, a location outside the principal community contour may be convenient to community residents because of its proximity to particular commuting patterns, access to public transportation or major highways, or the availability of ample public parking.

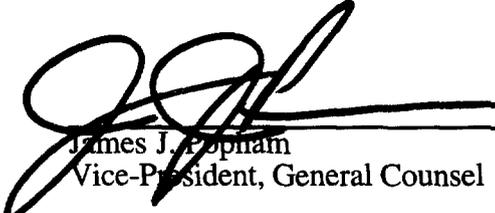
Moreover, no station could afford to lose touch with its community. The local video marketplace simply is too competitive.

For similar reasons, locating the public file at the main studio makes sense. Beyond the ease of co-location, maintaining the file at the main studio would reduce possible confusion among viewers and typically provide them with a more accessible, up-to-minute file.¹⁴

In view of the above, ALTV urges the Commission to amend its main studio rule to permit commonly-owned stations in the same market to co-locate their main studios and to maintain their public files at their main studio location.

¹⁴This is especially true in the case of letters from the public concerning programming, which television stations must place in their public files. 46 CFR §§ 73.1202(a) and 73.3526(a)(7).

Respectfully submitted,



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